

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

<b>Illinois Commerce Commission</b>	)	
<b>On Its Own Motion</b>	)	
	)	<b>Docket No. 09-0592</b>
<b>Adoption of 83 Ill. Adm. Code 412 and</b>	)	
<b>Amendment of 83 Ill. Adm. Code 453.</b>	)	

**JOINT BRIEF ON EXCEPTIONS  
OF INTERSTATE GAS SUPPLY OF ILLINOIS, INC.  
AND INTERSTATE GAS SUPPLY, INC.**

Interstate Gas Supply of Illinois, Inc. (“IGS Illinois”) and Interstate Gas Supply, Inc. (“IGS, Inc.”) (collectively, “IGS Energy”), by and through their attorneys, DLA Piper LLP (US), pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (“Commission”) (83 Ill. Admin. Code 200.830), respectfully submit this Joint Brief on Exceptions in the instant proceeding addressing the Administrative Law Judges’ Proposed First Notice Order (the “Proposed Order”) issued on March 18, 2011.

**I.**

**INTRODUCTION**

IGS Illinois is a licensed Alternative Gas Supplier and is an active participant in the Illinois competitive natural gas market, providing service to residential and commercial customers in northern Illinois. IGS, Inc. recently became a licensed Alternative Retail Electric Supplier (*see* ICC Docket No. 11-0178) and intends to become an active participant in the Illinois competitive electricity market. In addition to Illinois, IGS Energy (through IGS, Inc. or its affiliates) is an active participant in competitive markets in six other states and in a total of fourteen public utility service areas. As such, IGS Energy has a strong interest in the continued

fair and consistent development of an efficient and robust competitive energy marketplace in Illinois.

IGS Illinois intervened in this proceeding on August 30, 2010 and also filed a Verified Initial Brief at that time. IGS, Inc. is filing a Verified Petition to Intervene in this proceeding contemporaneous with the filing of the instant Joint Brief on Exceptions. For purposes of administrative efficiency, IGS Illinois and IGS, Inc. are submitting their joint position as IGS Energy in this Joint Brief on Exceptions.

IGS Energy respectfully submits that the Proposed Order and proposed regulations (the “Rules”) – in particular Section 412.120 – relating to door-to-door solicitation of residential customers should be modified. In particular, the Rules should ensure that door-to-door solicitations are made only by individuals that are: (a) properly screened, (b) properly trained, and (c) properly accountable. As stated in IGS Illinois’ Verified Initial Brief, these issues are important to ensuring a long term, vibrant competitive market in Illinois, which in turn requires that door-to-door salespeople are trustworthy and reliable representatives of their respective companies. (*See* IGS Illinois Verified Brief on Exceptions at 3-4.) To this end, IGS Energy proposes specific edits to Section 412.120 of the Rules.<sup>1</sup>

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<sup>1</sup> IGS Energy notes that Illinois would hardly be alone in providing these important consumer protections: for example, regulatory proceedings in Maryland and Pennsylvania are also examining the rules applicable to marketing and contracting with residential consumers and considering these very issues. IGS Energy, as part of a coalition in Maryland submitted oral comments in Case 9245, *Licensing of Maryland-Licensed Electric and Gas*, which is before the Maryland Public Service Commission, similar to the comments below.

## II.

### **SECTION 412.120 OF THE RULES SHOULD ENSURE PROPER SCREENING OF DOOR-TO-DOOR SALESPERSONS**

The Proposed Order notes the need to “provide maximum protection to the consumer and to set forth the guidelines for customer solicitation in a clear fashion.” (Proposed Order at 19.) IGS Energy agrees with that approach, particularly with respect to door-to-door solicitations. Accordingly, the IGS Illinois Verified Brief on Exceptions explained the need for regulatory control of door-to-door solicitations, given the “unique nature of the personal contact with customers” involved in that type of sales approach. (IGS Illinois Verified Brief on Exceptions at 3.) Although the Proposed Order recognizes the need for oversight of door-to-door solicitations, the Proposed Order fails to incorporate additional protections that would be in the interest of consumers. IGS Energy respectfully submits that such additional protections should be incorporated into Section 412.120 of the Rules.

In order to demonstrate a minimum character and fitness, an individual soliciting energy products through door-to-door means to residential consumers should be properly screened, including submitting to a background check and review against a Commission complaint database. The exact parameters of this background check could be determined by a subsequent collaborative process with proper legal advisement and review and thus need not be set forth in detail in the Rules now. However, based on IGS Energy’s experience in the market, important minimum components should include an investigation of criminal activity related to convictions for crimes involving (i) violence; (ii) injury against person or property, including theft offenses; (iii) drug offenses; (iv) fraud or other dishonesty; or (v) sexual offenses of any nature. The background check process should also potentially include a review of the Commission’s complaint database (detailed below) for any negative determinations regarding the individual.

IGS Energy proposes that conducting a background check would be paid for and would be the responsibility of the entity for which the residential consumer solicitations are to be made (energy supplier, broker, or agent), and such entity shall be directly accountable to the Commission. Background check records would be maintained for a period of no less than two (2) years beyond the last day the person was permitted to solicit energy products to residential consumers. Upon request, the energy supplier, broker, or agent would be required to produce background check records to the Commission or its Staff.

The consequences of finding certain elements in a potential door-to-door salesperson's background check will also require further determination. Specific guidelines for how a company must then use the results of the background check will ultimately need to be addressed. IGS Energy again suggests that a collaborative process will help determine the circumstances under which a potential door-to-door salesperson does not meet the minimum standard necessary to directly solicit energy products to residential consumers in Illinois.

### **III.**

#### **SECTION 412.120 OF THE RULES SHOULD CLARIFY THE MINIMUM TRAINING NECESSARY FOR DOOR-TO-DOOR SALESPERSONS**

Any individual soliciting energy products to residential consumers should be required to demonstrate a firm understanding of, at minimum, basic information regarding the energy industry, products offered by the supplier, and -- perhaps most important of all -- applicable consumer protection rules. To meet this standard, IGS Energy proposes that training programs should be required to include at least the following components:

- A. **Energy company-specific information**, including, at minimum: the company's principal place of business, the legal name of the company and any trade names used in that jurisdiction, how long the company has been in the energy business and contact information for the company (including mailing address and toll free telephone number).

- B. **Industry-specific information**, including general information about how the company is able to provide competitive energy products (*i.e.*, a reference to the legislative and/or regulatory authority of the choice programs), the supplier's certification number which has been assigned by the Commission, some detail regarding timeframes for switching to an alternative energy supplier, industry specific terms (such as kWh, kW, mWh), and differentiation between such terms, and the process for selecting a new energy supplier.
- C. **Product-specific information**, including the terms of the offer, renewal terms, cancellation fees, other fees, pricing features including fixed, variable (and the terms of variability) or other features, rates, payment options and any other special provisions, offers or aspects of the agreement, including but not limited to, rescission rights and service termination.
- D. **Knowledge of any consumer protection rules in place within the jurisdiction where the individual is soliciting.**

#### IV.

#### **SECTION 412.120 OF THE RULES SHOULD ENSURE THAT INDIVIDUALS ENGAGING IN DOOR-TO-DOOR SOLICITATION OF RESIDENTIAL CUSTOMERS SHOULD BE IDENTIFIABLE AND ACCOUNTABLE**

An essential component of consumer protection is that all individuals soliciting energy products to residential consumers should be identifiable and accountable. While specific guidelines would need to be developed through a collaborative process, IGS Energy's experience suggests that the best way to accomplish this goal includes assigning a unique identification number to each individual involved in direct solicitation. To help the energy supplier, broker, or agent easily identify a person who made a direct solicitation to a residential consumer, this identification number would be maintained by the company on whose behalf the solicitations are made (up to and including the energy supplier) and be easily retrievable upon request by the Commission.

IGS Energy further recommends that at the beginning of each residential solicitation, the individual soliciting energy products to residential consumers would hand to (and leave with) the residential consumer being solicited a card that contains the solicitor's unique identification number. The individual's unique identification number would also be clearly marked on all

materials left with the residential consumer. In the event a solicitor is alleged to have violated any applicable consumer protection rules as established by this collaborative process and ultimately resulting in specific regulations, the Commission would investigate the alleged claim. If a violation of consumer protection rules was determined, the solicitor's identification number would be added to a database ("Commission complaint database") for a set period of time (to be determined), and be made accessible to all energy suppliers serving residential consumers with a notation regarding the outcome of any investigation. The ultimate process used to identify and list violators would need careful consideration by the stakeholders to ensure an investigation process based on a fair methodology that would also allow for an appeals process.

## V.

### **SUGGESTED REVISIONS TO PROPOSED RULE 412.120**

Although Appendix A to the Proposed Order contains some modified language, IGS Energy respectfully proposes that additional modifications be included to provide further consumer protection measures, as discussed above. Accordingly, IGS Energy proposes the following revisions to the section beginning at page 18 of the Proposed Order:

#### **Proposed Section Customer Solicitation**

AG/CUB proposed additional language in this section to offer the consumer protection from a RES which may attempt to misrepresent its services. BlueStar and Staff offered objections to this language. BlueStar argued that this Section mirrors amended language in the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505.1 et seq.] and Section 19-115 of the Public Utilities Act. BlueStar believed that given the fact gas and electricity are separate commodities, each utility should require different and distinct rules for consumer solicitation. Thus, BlueStar concluded and Staff agreed, the existing statutes along with Part 412 adequately addresses the RESs responsibilities for customer solicitation. Staff also commented that AG/CUB's proposal failed to bring any substantive value to this section other than the \$50 cap on early termination fees.

**IGS Energy raised several issues regarding the minimum standards for individuals conducting door-to-door solicitation. IGS Energy argued that in order to ensure a vibrant competitive energy market and provide necessary consumer protections, the Rule should impose certain minimum standards on individuals conducting door-to-**

door solicitation. These minimums include background checks, training, and accountability. IGS Energy leaves some of its proposals purposefully open-ended in instances where it avers that a collaborative process (such as a workshop) is needed to develop any specific and detailed appropriate standards. However, IGS Energy encourages the Commission to incorporate into the Rule the basic requirements for background checks, training, and accountability for door-to-door solicitors.

### **Analysis and Conclusions**

Section 412.120 sets forth guidelines for door-to-door solicitation. For the reasons stated above, the Commission will adopt the language here and shall incorporate this Section with the aforementioned Section regarding customer solicitation, including the language proposed by IGS Energy on Exceptions.

IGS Energy has raised several valid points with regard to the minimum steps needed to protect consumers and support a vibrant market that includes door-to-door sales that will require further input from all stakeholders. We hereby order Staff to open a workshop process to address, at minimum, the following issues: (1) the content of the background check contemplated in 412.120(h); (2) results of that background check that would require the supplier to take certain actions; (3) creation of a unique ID number system for door-to-door solicitors; and (4) the minimum training content that a supplier must provide to its door-to-door solicitors.

IGS Energy suggests that additional subsections in Section 412.120 of the Rule (“Door-to-Door Solicitation”), following (g), be added as follows:

(h) A RES engaging in door-to-door sales shall, prior to permitting any agent to conduct door-to-door solicitations of residential customers on its behalf, undertake or cause to be undertaken a background check of such agent. Any RES that currently engages in door-to-door sales shall, within sixty days of promulgation of this subsection, shall undertake or cause to be undertaken a background check of each of its agents currently engaging in door-to-door solicitations. Background check results shall be maintained for the entire period of each agent’s employment with the RES and for a period of 2 years thereafter, and a RES shall provide a copy of a background check to the Commission Staff if so requested within 3 business days of such request. Following passing a background check each agent shall be assigned a unique identification number by the entity on whose behalf solicitations will be made. The unique identifier shall be provided to each residential consumer at the beginning of any door-to-door solicitation, and left with the consumer regardless of whether the solicitation is concluded with a sale. This subsection shall become effective upon Commission order, following completion of the Commission-ordered workshop process related to this subsection.

(i) It shall be the responsibility of a RES to properly train each of its agents before any such agent shall engage in door-to-door solicitations of residential

**consumers, to ensure he or she has an understanding of the consumer protection rules and requirements imposed by this section. This subsection shall become effective upon Commission order, following completion of the Commission-ordered workshop process related to this subsection.**

**VI.**

**CONCLUSION**

For the reasons discussed herein, IGS Energy respectfully requests that the Commission modify the Proposed Order and Proposed Rule 412.120 in accordance with the arguments and exceptions language provided and provide such other relief as the Commission determines to be appropriate..

Respectfully submitted,

**Interstate Gas Supply of Illinois, Inc. and  
Interstate Gas Supply, Inc.**

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